IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.760 OF 2007
WITH
CIVIL APPLICATION NO.1430 OF 2007

Sukhdeo Krishna Patil .. Appellant.
Vs.
State of Maharashtra & Anr. .. Respondents.

WITH

SECOND APPEAL NO.761 OF 2007
WITH
CIVIL APPLICATION NO.1431 OF 2007

Virupaksha Shivling Jangam .. Appellant.
Vs.
State of Maharashtra & Anr. .. Respondents.

Mr.N.V.Bandiwadekar for the appellants.
Mr.Bharat Mehta AGP for respondent no.1.

CORAM : D.B.BHOSALE, J.
DATED : 19TH OCTOBER, 2007.

P.C.:

. Heard learned counsel for the parties.

2. These two second appeals are directed against separate judgments of the court below having similar facts by which two separate suits of the appellants-plaintiffs have been dismissed. All the facts, except the suit properties, and the plaintiffs are similar. The appellants had instituted the suits seeking declaration that the plaintiffs are owner of the suit properties and that the defendants-State

cannot evict the plaintiffs without following the due process of law. It appears that the suit lands have been acquired by the State for the construction of Karad-Chandoli road. Mr.Bandiwadekar, learned counsel for the appellants fairly stated that insofar as declaration sought in the suits is concerned he has instructions not to press these appeals against the findings recorded on the point of declaration holding that the plaintiffs are not owner of the suit property. He further submitted that admittedly the plaintiffs are in possession of the suit property. According to Mr.Bandiwadekar the suit properties do not find place in the award and, therefore, the defendants have no right to take possession of the suit properties without following due process of law. He placed a copy of the award before me for my perusal. I have perused the award so also the description of the properties in the plaint. In my opinion, there is a clear reference to the suit properties in the award. That apart, a specific contention that the suit properties do not find place in the award was not raised before the courts below, though in the plaint, the plaintiffs have made a vague statement that the suit properties were not acquired by the State. In any case, even if it is accepted that what the appellants state is correct, they have no right in the suit property. Moreover,

it is clear from the facts of the case that the defendants have followed the due process for evicting the appellant-plaintiff from the suit property. Considering the concurrent findings of the fact recorded by the courts below and since I find sufficient material on record to sustain those findings, no interference in the second appeals is called for. No substantial question of law is raised. The second appeals are dismissed. Consequently, the civil applications also stand disposed of. At this stage Mr.Bandiwadekar prayed for stay of this order for a period of two weeks. His prayer for stay is rejected.

(D.B.BHOSALE, J.)